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*dba* Bandago

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**DIGBY ADLER GROUP LLC DBA  
BANDAGO**

**Plaintiff,**

**vs.**

**IMAGE RENT A CAR, INC., VAN  
RENTAL CO., INC.,**

**Defendants.**

Case No. 3:10-cv-00617-SC

**DECLARATION OF ANDREW MOORE  
IN OPPOSITION TO DEFENDANTS'  
MOTION TO DISMISS OR IN THE  
ALTERNATIVE TO TRANSFER VENUE**

DATE: June 16, 2010  
TIME: 10:00 a.m.  
CTRM: 1, 17th Floor  
JUDGE: The Hon. Samuel Conti

KRONENBERGER BURGOYNE, LLP  
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San Francisco, CA 94108  
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1 I, Andrew Moore, declare as follows:

2 1. I am a Call Center Representative for Digby Adler Group LLC *dba* Bandago  
3 (“Bandago”). Unless otherwise stated, I have personal knowledge of the matters stated  
4 herein.

5 2. As a Call Center Representative at Bandago, I handle direct interactions  
6 with consumers, including assisting with reservations and responding to consumer  
7 inquiries.

8 3. I reside in Northern California, and I am prepared to testify in this action,  
9 including as to consumer confusion resulting from Defendants’ registration and use of the  
10 <www.bandago.net> domain name.

11 4. During 2008 and 2009, Bandago received several inquiries from California  
12 consumers regarding the relationship between Bandago on the one hand and the domain  
13 name <www.bandago.net>, the website associated with that domain name, and Image  
14 Rent A Car, Inc. and Van Rental Co., Inc on the other hand.

15 5. As limited examples only:

- 16 • A consumer called Bandago and asked me “why was I just told you  
17 were sold out when I called earlier?”
- 18 • A consumer called Bandago and told me: that he had called the number  
19 listed on the website associated with <www.bandago.net>; that the  
20 consumer had asked the representative if he had reached “Bandago”;  
21 and the representative answered, “yes, we rent Sprinter vans.”
- 22 • A consumer called Bandago and asked me, “Is this Image?” When I  
23 told the consumer no, that it was Bandago, the consumer replied, “good,  
24 I can tell they have a few different portals and I don’t like the way they  
25 seem to do business.”

26 6. During this time period, I discussed these incidents of consumer  
27 confusion—and other similar incidents—with other Bandago employees who had  
28 witnessed similar incidents of consumer confusion, including Sharky Laguana, Guy

1 Higbey, Keeley Pederson, and Rachel Lastimosa.

2 I declare under penalty of perjury under the laws of the United States of America  
3 that the foregoing is true and correct and that this Declaration was executed on May 25,  
4 2010, in San Francisco, California.

5  
6 s/ Andrew Moore

7 Andrew Moore  
8

9 **ATTESTATION OF CONCURRENCE IN FILING**

10 Pursuant to the General Order No. 45, section 45 X(B), for The United States District  
11 Court for the Northern District of California, I, Karl S. Kronenberger, hereby attest that the  
12 concurrence to the filing of this DECLARATION OF ANDREW MOORE IN OPPOSITION  
13 TO DEFENDANTS' MOTION TO DISMISS OR IN THE ALTERNATIVE TO TRANSFER  
14 VENUE has been obtained from Andrew Moore who has provided the conformed  
15 signature above.  
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